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Attorneys for Defendants **JOSE ZAVALA and**
JULIO QUINTANILLA

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

MARGARITO T. LOPEZ,
SONIA TORRES, KENI LOPEZ,
ROSY
LOPEZ,

Plaintiffs,

v.

CITY OF LOS ANGELES, JOSE
ZAVALA, JULIO QUINTANILLA,
AND DOES 1 THROUGH 10,
INCLUSIVE,

Defendants.

CASE NO. 2:22-cv-07534-FLA-MAAx

*[Assigned to Judge Fernando L. Aenlle-Rocha,
USDC-Hon. Mag. Maria A. Audero, USDC-
Roybal Bldg]*

**DEFENDANTS' NOTICE OF
MOTION AND MOTION FOR
BIFURCATION; MEMORANDUM
OF POINTS AND AUTHORITIES**

[Filed concurrently [Proposed] Order]

FPTC: July 12, 2024

TIME: 1:30 PM

DEPT: 6B, 6th Floor

PLEASE TAKE NOTICE THAT Defendants JOSE ZAVALA and JULIO
QUINTANILLA (collectively "Defendants"), will and hereby do move this Court,
before trial and prior to jury selection, for an order bifurcating the trial in the above-
captioned matter pursuant to *Federal Rules of Civil Procedure (FRCP) Rule 42(b)*.

1 Bifurcating this action into two phases as follows: Phase 1 – Determination of
2 liability against the Defendants on all claims and the threshold determination of
3 punitive damages; and, Phase Two – The amount of compensatory damages and
4 punitive damages, if any.
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6 This Motion is based upon the supporting Memorandum of Points and
7 Authorities, the papers and pleadings on file in this action, and upon such further
8 matter which may be presented at or before the hearing on this Motion.
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13 Date: June 10, 2024

Respectfully Submitted,

14 **STONE BUSAILAH, LLP**

15 By: /s/ Muna Busailah

16 MUNA BUSAILAH, Esq.
17 Attorney for Defendants JOSE ZAVALA,
18 JULIO QUINTANILLA
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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

This matter arises from a fatal use-of-force incident involving Plaintiff/Decedent Margarito Edvin Lopez and City of Los Angeles Police Department Officers Jose Zavala and Julio Quintanilla. Plaintiffs (which include Decedent and several of his family members) allege violations of federal and state civil rights, as well as state-law tort claims. (Dkt. #1, Complaint). Plaintiffs seek monetary damages against Defendants as a result to include “emotional distress and mental anguish” as well as loss of “love, companionship, comfort, support, society, care and moral support”; and “anguish, fright, horror, nervousness, grief, anxiety, worry, shock, humiliation, and shame”. (Dkt. #1, Complaint ¶¶ 118, 135). Plaintiffs also seek punitive damages. (Dkt. #1, Complaint ¶ 43).

Defendants seek an order bifurcating the trial as follows: Phase 1 – Determination of liability against the Defendants on all claims and the threshold determination of punitive damages; and, Phase Two – The amount of compensatory damages and punitive damages, if any.

II. THIS COURT IS AUTHORIZED TO ORDER BIFURCATION OF ANY ISSUE UNDER FEDERAL RULE OF CIVIL PROCEDURE, RULE 42(b)

Rule 42(b) of the Federal Rules of Civil Procedure states in relevant part that, “The court, in furtherance of convenience or to avoid prejudice, or when separate trials will be conducive to expedition and economy, may order a separate trial of . . .

1 any separate issue . . .” Fed. R. Civ. Proc. 42(b). Under Rule 42(b), district courts
2 have “the authority to separate trials into liability and damages phases.” *DeAnda v.*
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4 *City of Long Beach*, 7 F.3d 1418, 1421 (9th Cir. 1993). Indeed, the Ninth Circuit has
5 “long held that under Fed. R. Civ. P. 42(b), a trial court may separate a trial
6 into liability and damages phases.” *Jackson v. Cnty. of Los Angeles*, 29 F. App’x
7 430, 436 (9th Cir. 2001). Additionally, judges have wide latitude in choosing how
8 to conduct their trials, including any decision to bifurcate. *Estate of Diaz v. City of*
9 *Anaheim*, 840 F.3d 592, 601 (9th Cir. 2016).

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12 Factors to be considered in deciding whether to order separate trials include:
13 avoiding prejudice, separability of the issues, convenience, judicial economy, and
14 risk of confusion. *Bates v. United Parcel Service*, 204 F.R.D. 440, 448 (N.D. Cal.
15 2001). Other factors to be considered include the complexity of the issues, factual
16 proof, and the possibility that the first trial may be dispositive of the case. *Calmar,*
17 *Inc. v. Emson Research, Inc.*, 850 F. Supp. 861, 866 (C.D. Cal. 1994). *See also*
18 *Danjaq LLC v. Sony Corp.*, 263 F.3d 942, 961 (9th Cir. 2001) (A court may bifurcate
19 a trial “to avoid [] a difficult question by first dealing with an easier, dispositive
20 issue.”).

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1 **III. SEPARATE PHASES OF THE TRIAL WILL PREVENT UNFAIR**
2 **PREJUDICE AND CONFUSION AND PROMOTE JUDICIAL**
3 **ECONOMY**

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5 **A. Bifurcation Will Prevent Unfair Prejudice & Confusion**

6 In an excessive force case, the issues of liability and damages are separable.
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8 *Estate of Diaz v. City of Anaheim*, 840 F.3d 592, 601, 603 (9th Cir. 2016).
9 Specifically, district courts have noted that in § 1983 actions involving officer-
10 involved shootings, “courts should [generally] bifurcate liability issues from
11 damages issues where there is evidence that might prejudice a party and that evidence
12 has little to no relevance to the liability issue.” *Vargas v. Cnty. of Los Angeles*, 2023
13 WL 2266114, at *3 (C.D. Cal. 2023). *See also Conan v. City of Fontana*, 2017 WL
14 8941499, at *7–8 (C.D. Cal. Oct. 6, 2017) (bifurcating damages from liability in an
15 excessive force case).
16
17

18 Bifurcating liability from damages will avoid the inescapable jury confusion
19 about which evidence and testimony are relevant to liability and damages and prevent
20 the jury from questioning which information they must segregate from their
21 consideration between liability and damages. *See, e.g., Glover v. City of Los Angeles*,
22 No. 2:21-CV-09915-FWS-AS, 2023 WL 8586386, at *4 (C.D. Cal. Oct. 26, 2023)
23 (holding that bifurcation of liability and damages “would avoid potential confusion
24 of issues for the jurors and prevent prejudice to both parties by limiting the scope of
25 evidence in the first phase to liability”); *T.D.W. v. Riverside County*, 2009 WL
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1 2252072 (C.D. Cal. 2009) (concluding the trial should be bifurcated “so as to try
2 compensatory damages in the second phase”). Here, it is anticipated that
3
4 Plaintiffs will provide testimony consisting of their emotional state at the time of the
5 incident or following loss of the Decedent. However, when proving individual
6 liability, the evidence must center on the actions of the Officers that gave rise to this
7 lawsuit. *See Graham v. Connor*, 490 U.S. 386, 397, 109 S. Ct. 1865 (1989) (excessive
8 force inquiry focuses on, “whether the officers’ actions are objectively reasonable in
9 light of the facts and circumstances confronting them”). Therefore, any testimony as
10 to emotional damages suffered by Plaintiffs during the liability phase will only seek
11 to prompt an emotional response from the jury and play on their sympathies – a
12 distraction from considering the facts of reasonableness and unfair prejudice to the
13 Defendants.
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17 Additionally, “while there is a strong presumption that jurors follow
18 instructions, a limiting instruction may not sufficiently mitigate the prejudicial
19 impact of evidence in all cases.” *Diaz*, 840 F.3d at 603. Indeed, bifurcation is ideal
20 to avoid the possibility of jury confusion as to limiting instructions on punitive
21 damages in an already complex case.
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24 Therefore, because Plaintiffs’ damages – emotional, compensatory, or
25 otherwise – have no bearing on whether the Defendant Officers used excessive force,
26 and deciding the issue of damages alongside liability would only serve to confuse the
27 jury and ultimately prejudice the Defendants, this Court should bifurcate the issues
28

1 into two separate phases of liability and damages.

2 **B. Bifurcation Will Promote Judicial Economy**

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4 Bifurcation will also “serve judicial economy as the jury must first find the
5 Defendants liable before awarding any damages.” *Barillas v. City of Los Angeles*,
6 2021 WL 4434977 (C.D. Cal. 2021). The issue of damages and liability here are not
7 intertwined, and bifurcation will not prejudice the Plaintiffs during the liability phase
8 of the trial. Because there is a lack of interrelated evidence in this case, there is
9 minimal risk, if any, of inconvenience to the jury caused by separating the issues of
10 liability and damages into two phases. Indeed, the only witnesses expected to testify
11 as to both liability and damages are the Plaintiffs themselves. (Dkt. #64 Plaintiffs’
12 Witness List). *Contra PMG, Inc. v. Lockheed Martin Idaho Technologies Co.*, No.
13 CV-02-539-E-BLW, 2006 WL 1207609, *2 (D. Idaho 2006) (“Many of PMG’s
14 witnesses will testify on both liability and damages. Such testimony is intertwined
15 and difficult to separate out. . . In a bifurcated trial, their testimony on damages may
16 follow their testimony on liability by a week or more, requiring them to return home
17 and then fly back”).

18
19 The Court has succinctly explained how, in fatal shooting use-of-force cases,
20 bifurcation would promote judicial economy:

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22 Bifurcation will not prejudice Plaintiffs during the liability phase
23 of the trial because the jury is not supposed to consider the
24 Plaintiffs' damages or factors pertaining to Decedent's life
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1 expectancy and quality of relationship with Plaintiffs when
2 deciding Defendants are liable for Decedent's death. Moreover,
3 bifurcation will address the risk that Plaintiffs will be unduly
4 prejudiced in the liability phase of the trial by evidence that will be
5 adverse to them but relevant for the purposes of damages.
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8 Rendon v. City of Indio, No. EDCV1300667VAPOPX, 2014 WL 12965995, at *8–
9 9 (C.D. Cal. June 4, 2014)
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11 Similarly, here, bifurcation would allow both Plaintiffs and Defendants to save
12 time of calling witnesses who would otherwise not be called to testify in the liability
13 or damages phases. On the other hand, failure to bifurcate the issues of liability and
14 damages will take up an undue amount of time and resources if the jury finds that the
15 Defendants are not liable. Accordingly, “bifurcation will serve judicial economy as
16 the jury must first find the Defendants liable before awarding any damages.” *Barillas*
17 *v. City of Los Angeles*, No. CV1808740CJCASX, 2021 WL 4434977, at *2 (C.D.
18 Cal. Apr. 12, 2021) (citing and quoting *Danjaq LLC v. Sony Corp.*, 263 F.3d 942,
19 961 (9th Cir. 2001) for the proposition that “approving bifurcation when it serves to
20 ‘avoid [] a difficult question by first dealing with an easier, dispositive issue’”)
21 (internal brackets added in original).
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24 Therefore, bifurcating the issues of liability and damages into two separate
25 phases will promote judicial economy.
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1 **IV. CONCLUSION**

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3 Defendants respectfully request an order bifurcating this case into two separate
4 phases: Phase 1 – Determination of liability against the Defendants on all claims and
5 the threshold determination of punitive damages; and, Phase Two – The amount of
6 compensatory damages and punitive damages, if any.
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10 Date: June 10, 2024

Respectfully Submitted,

11 **STONE BUSAILAH, LLP**

12 By: /s/ Muna Busailah

13 MUNA BUSAILAH, Esq.

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